

Serial No. 10/775,064

HEIDEMANN et al.

PF 54338

Accordingly, applicants have revised the wording of Claim 1 to avoid the expression "if". On the one hand, the phrase "the feed stream ... experiences a temperature increase in each reaction zone and, if this temperature increase is more than $T_{in} + 20^{\circ}\text{C}$ " has been amended to read --the feed stream ... experiences a temperature increase in each reaction zone by more than $T_{in} + 20^{\circ}\text{C}$ -- to positively recite the respective requirement. On the other hand, applicants have revised the wording "or if more than 2 reactors are used" to read --or in the event that more than 2 reactors are used--. No new matter has been added.

The Examiner rejected Claims 1 to 5 under 35 U.S.C. §112, ¶2, criticizing that Claim 1, due to the recitation of the "if" phrase, failed to positively or negatively recite the requirement. In light of the foregoing the claim now no longer recites the indefinite phrasing. It is therefore respectfully requested that the rejection under Section 112, ¶2, be withdrawn. Favorable action is solicited.

The Examiner rejected Claims 1 to 5 under 35 U.S.C. §103(a) as being unpatentable in light of the teaching of *Schulz et al.* (US 6,846,965). As pointed out by the Examiner, the claims were interpreted in this context as having no step of adjusting the temperature and having no step of dividing the feed steam and adding fresh feed. The revised wording of applicants' claims clearly does not allow such an interpretation, and the Examiner's reasons for finding the subject matter of applicants' claims obvious are therefore no longer applicable. Moreover, the teaching of *Schulz et al.* clearly fails to suggest or imply the particular combination of elements which is set forth in applicants' claims.²⁾ The teaching of *Schulz et al.* can accordingly not be deemed to render applicants' invention as defined in Claim 1 and further specified in the dependent claims obvious within the meaning of Section 103(a). In light of the foregoing and the attached it is respectfully requested that the rejection of Claims 1 to 5 under Section 103(a) be withdrawn. Favorable action is solicited.

REQUEST FOR EXTENSION OF TIME:

It is respectfully requested that a two month extension of time

2) Cf. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991) which holds that the teaching or suggestion to make the claimed combination must be found in the prior art and cannot be based on the applicant's disclosure.

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be granted in this case. The respective \$450.00 fee is paid by credit card (Form PTO-2038 enclosed).

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 14.1437. Please credit any excess fees to such deposit account.

Respectfully submitted,

NOVAK DRUCE DELUCA & QUIGG



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Encl.: CLAIM AMENDMENTS (Appendix I)

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